

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LEEVERNE JAMES,

Plaintiff,

v.

LONNIE OLIVER, et al,

Defendants.

Case No. 1:23-CV-21

MEMORANDUM ORDER

This action was received by the Clerk of Court on February 2, 2023. The matter was assigned and later referred to Chief United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

In the operative complaint, Plaintiff, an inmate acting pro se, alleges that his constitutional rights have been violated by multiple Department of Corrections' staff during his incarceration. Most of Plaintiff's claims sound in retaliation. ECF No. 32. In response to the amended complaint, Defendants filed a motion to dismiss. ECF No. 33.

On May 14, 2024, Chief Magistrate Judge Lanzillo issued a Report and Recommendation recommending that the pending motion to dismiss be granted in part and denied in part. ECF No. 42. Despite being advised of the opportunity to do so, neither party filed any objection to the Report and Recommendation.¹

¹ Plaintiff twice requested extensions of time to file objections. Both motions were granted. Any objection was due by July 15, 2024.

Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2). After *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

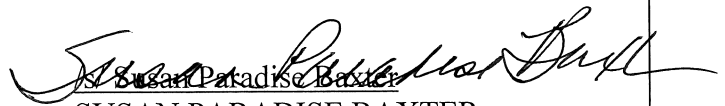
AND NOW, this 17th day of July 2024;

IT IS ORDERED that the motion to dismiss [ECF No. 33] is granted in part and denied in part. Specifically, Defendants' motion is denied as to:

- 1) James' retaliation claims against DePlatchett for refusing to transfer him to the Honor Unit after he obtained employment in October 2021;
- 2) James' retaliation claim against Thompson for directing Cheek not to transfer James because of his recent grievance; and
- 3) James' equal protection claim against Hammet, DePlatchett, Thompson, Oliver, and Cheek.

The motion to dismiss is granted as to all other claims. The Clerk is hereby directed to terminate Defendants Suesser and Zillman as parties to this action.

AND, IT IS FURTHER ORDERED that the report and recommendation of Chief Magistrate Judge Lanzillo, issued on May 14, 2024 [ECF No. 42] is adopted as the opinion of the court.


SUSAN PARADISE BAXTER
United States District Judge